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Agenda item 70 (a)

Strengthening of the coordination of humanitarian and disaster relief assistance of the United Nations, including special economic assistance: strengthening of the coordination of emergency humanitarian assistance of the United Nations

Letter dated 4 February 2014 from the Secretary-General addressed to the President of the General Assembly

I have the honour to refer to General Assembly resolution 60/124 of 15 December 2005 in which the Central Emergency Response Fund Advisory Group was established to advise me on the use and impact of the Fund. In accordance with paragraph 21 of the resolution, I hereby transmit a note on the meeting of the Advisory Group, which was held in New York on 4 and 5 November 2013 (see annex).

As summarized in the note, the Advisory Group expressed appreciation for the ongoing improvements in the performance and management of the Fund. The Group considered a number of policy issues, including the closure of the management response plan carried out in follow-up to the five-year evaluation of the Fund; recent efforts to improve the quality of narrative reporting on the use of the Fund; an update on the performance and accountability framework; the Fund's risk action plan; support for the protection activities of the Fund; and the contribution to the Fund's resilience initiatives.

The Group members appreciated the opportunity to interact directly with the Controller of the United Nations on the use of the Fund's programme support costs. They requested the Controller to provide further information about the use and traceability of programme support costs once the new system-wide enterprise resource planning system (Umoja) is in place.

The Group met with members of the Inter-Agency Standing Committee (IASC) to discuss partnerships with non-governmental organizations and progress in making timely disbursements from United Nations agencies and the International Organization for Migration to implementing partners. The Group recommended that the timeliness of the disbursement of funds to implementing partners be brought to the attention of IASC principals for discussion at the next Advisory Group meeting.

Group members noted with concern the heavy reliance of the Fund on its top donors and emphasized the need for the additional mobilization of resources. They

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recommended a revision of the Fund's resource mobilization strategy to include a regional approach and to leverage new partnership and fundraising opportunities in the private sector.

I would be grateful if you would bring the present letter and its annex to the attention of Member States and observer missions.

(Signed) **BAN Ki-moon**

Annex**Note on the meeting of the Central Emergency Response Fund Advisory Group (4 and 5 November 2013)****Recommendations and conclusions**

1. The Central Emergency Response Fund (CERF) Advisory Group was established by the General Assembly in its resolution 60/124 to advise the Secretary-General, through the Under-Secretary-General for Humanitarian Affairs, on the use and impact of the Fund. The Advisory Group's second meeting of 2013 was held in New York on 4 and 5 November and was chaired by Catherine Walker (Australia).
2. The Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator briefed members on the use and management of CERF from January to October 2013, highlighting specifically the critical emergency assistance provided for the Syrian Arab Republic under the Fund. The meeting was also the first opportunity for members of the Advisory Group to interact directly with the Controller on the use of CERF programme support costs. Members met with representatives of the Inter-Agency Standing Committee (IASC) Working Group to focus on progress made since their previous meeting, held in May in Geneva, regarding timely disbursements from United Nations agencies and the International Organization for Migration to implementing partners and their partnership with non-governmental organizations. The Advisory Group furthermore considered key policy issues, including the closure of the management response plan carried out in follow-up to the five-year evaluation of CERF; recent efforts to improve the quality of narrative reporting on the use of funds; an update on the performance and accountability framework; the CERF risk action plan; support for protection activities under the Fund; and the Fund's contribution to resilience initiatives. Further to those discussions, the Advisory Group offers below its observations and recommendations.

Management

3. The Emergency Relief Coordinator notified the Advisory Group that CERF had allocated nearly \$416 million to 42 countries and territories from January to October 2013. The Group expressed its appreciation to the Emergency Relief Coordinator and the CERF secretariat for their management of the Fund.
4. Members noted with concern the heavy reliance of CERF on its top donors and emphasized the need for the mobilization of additional resources. The Group recommended that the Fund's resource mobilization strategy be further revised to develop a regional approach and to leverage new partnership and fundraising opportunities in the private sector. The members acknowledged their own role in resource mobilization and advocacy on behalf of CERF, particularly in their own regional groupings and countries, and encouraged the CERF secretariat to explore opportunities for members to participate further in those areas.
5. The Advisory Group welcomed the IASC members' ongoing efforts and initiatives to improve the timeliness of the disbursement of funds to their implementing partners. The Group noted, however, that there was room for improvement on the part of all agencies and recommended that the timeliness of

such disbursements be brought to the attention of IASC principals for discussion at a future meeting. In particular, the Group noted the value of measuring performance against benchmarks and encouraged the establishment of internal benchmarks for the timely disbursements of funds. Furthermore, the Group requested that the IASC humanitarian financing task team consider the best practices of individual agencies, which could lead to improvements across the board in the timeliness of the disbursement of CERF funds to recipient agencies' implementing partners.

6. The members also questioned IASC representatives about their partnerships with non-governmental organizations and the role that they could play in ensuring that implementing partners recognized the contribution of CERF funds to their activities. This was important for improving visibility and accountability. They also encouraged the IASC representatives to further strengthen the involvement of implementing partners in the CERF prioritization process. The CERF secretariat was asked to compile best practices and lessons learned in order to more accurately measure the Fund's impact and added value in the field. The Group encouraged the CERF secretariat to continue to strengthen its partnership with IASC members within the humanitarian financing task team.

7. The Advisory Group expressed its appreciation for the participation of the United Nations Controller and the time she took to explain to members the use of CERF programme support costs in a broader context. At the request of the Group following the May 2013 meeting, the Controller presented a comprehensive overview of the framework regulating the use of programme support costs and a detailed explanation of the use of the portion of programme support costs earmarked for the corporate initiatives and joint services of the United Nations Secretariat. The Group also requested the Controller to provide more detailed information about the use and traceability of programme support costs once the new system-wide enterprise resource planning system (Umoja) is in place.

8. Regarding the decision from the joint meeting of the Executive Boards of the United Nations Development Programme, the United Nations Population Fund, the United Nations Children's Fund and the United Nations Entity for Gender Equality and the Empowerment of Women to increase their cost recovery rate from 7 to 8 per cent, the CERF secretariat informed the Advisory Group that the new rate would not apply to CERF under the current legal agreements.

9. The Advisory Group acknowledged and congratulated the CERF secretariat on the successful implementation of the management response plan in follow-up to the five-year evaluation of CERF, in particular the recommendations that were directly under its control. It then formally closed the plan. Members noted, however, that they would like to revisit some of the related topics at a later stage and requested that the secretariat update them regularly on any pending issues and include them in the Fund's longer-term workplan. The members reiterated that some of the recommendations fell beyond the scope and control of the CERF secretariat.

10. The Advisory Group welcomed the update of the review of the performance and accountability framework and the country reviews of the Democratic Republic of the Congo, Pakistan and Yemen to assess the Fund's added value in responding to humanitarian crises. A similar regional review of the Fund's contribution in response to the food and nutrition crisis in the Sahel was also considered, with specific reviews of Burkina Faso, the Niger and Senegal. Members were pleased with the country and regional reviews and the general findings, which confirmed the positive

impact of CERF and its added value in responding to humanitarian crises as an early source of substantial funding that enables a quick response, leverages other donor funding and supports coordination. The Group encouraged the CERF secretariat to continue to actively address the issues raised in the reviews and expressed the hope that the results would be disseminated widely.

11. The members expressed their appreciation for the findings in connection with the independent review of the CERF performance and accountability framework, noted that the review had achieved its main intended objectives and encouraged the CERF secretariat to act on the opportunities identified for improvement. They also acknowledged that the secretariat had only recently received the final report, which was still being reviewed. They requested that the final document be shared with them.

12. The members welcomed the introduction of the new rolling schedule for narrative reporting by the resident/humanitarian coordinators that synchronizes with the project cycle and requested that reports be submitted within three months of the expiration of each grant. They noted that the new system would reduce agencies' reporting burdens, allowing for a more timely review and feedback from the CERF secretariat. It would also simplify the reporting structure, improve the accuracy of the data and increase the transparency and accountability of CERF to stakeholders.

13. Regarding the request to substantiate how CERF is funding protection activities, the Advisory Group discussed the analysis provided by the CERF secretariat and acknowledged that 4 per cent funding for stand-alone protection activities was not reflective of the total amount of CERF funding allocated to those activities, which in many instances are multisectoral. The Group encouraged a pragmatic approach that highlights the variety of protection activities already funded by CERF outside of the protection cluster, as well as CERF support for protection activities within a specific country context. The Group also discussed the contribution of CERF to resilience initiatives, confirming that the Fund is playing a small yet significant role in facilitating resilience within a specific emergency response by supporting early action activities that meet the Fund's life-saving criteria.

14. Regarding the issue of complementarities between CERF and country-based pooled funds, the Advisory Group re-emphasized that further harmonization between pooled funds and CERF would improve the overall coherence, efficiency and effectiveness of humanitarian coordination and action. The members were informed that the guidance note on complementarities was currently being finalized and would be shared with them once the inputs from all managers of pooled funds were received and incorporated. The members also discussed the role of humanitarian coordinators in providing leadership and accountability.

15. Regarding the carry-over amount raised during the previous meeting, the Advisory Group expressed its appreciation for the Fund's clarification, in which the importance of having a buffer amount to respond to early requests at the beginning of each calendar year was noted. Furthermore, the end-of-year financial carry-over includes a substantial amount of income resulting from the Fund's annual high-level pledging event held in December. The members also welcomed the update on the semi-annual CERF risk action plan and acknowledged its importance for risk mitigation and advocacy purposes.

Administrative matters

16. The Advisory Group expressed its appreciation for the work of its Chair, Ms. Walker, and its Vice-Chair, Mathewos Hunde Tulu (Ethiopia).

17. The Group confirmed its intention to have the next meeting in Geneva in conjunction with the annual retreat of humanitarian coordinators in May 2014. This will give the members an opportunity to interact with humanitarian coordinators and to discuss their views and perspectives on CERF, the Fund's impact in the field and their experiences in coordinating and leading humanitarian responses. Other field-based representatives of humanitarian organizations could also be invited.

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Agenda items 34, 38, 65, 67, 69, 77, 85 and 86

**Protracted conflicts in the GUAM area and their
implications for international peace, security
and development****The situation in the occupied territories of Azerbaijan****Promotion and protection of the rights of children****Elimination of racism and racial discrimination,
xenophobia and related intolerance****Promotion and protection of human rights****Responsibility of States for internationally wrongful acts****The rule of law at the national and international levels****The scope and application of the principle of
universal jurisdiction****Security Council
Sixty-ninth year****Letter dated 24 February 2014 from the Permanent Representative
of Azerbaijan to the United Nations addressed to the
Secretary-General**

As is known, the ongoing armed conflict between the Republics of Armenia and Azerbaijan began at the end of 1987 with Armenia's overt territorial claims on the Daghylyq Garabagh (Nagorno-Karabakh) autonomous *oblast* of Azerbaijan. Those claims marked the beginning of the assaults on the Azerbaijanis in and their expulsion from both the autonomous *oblast* and Armenia itself. The forcible deportation of more than 200,000 Azerbaijanis from their homes in Armenia was accompanied by killings, torture and other crimes. This is clear evidence of the fact that groundless and unlawful secessionist demands from the very outset were not "peaceful aspirations", as the Armenian propaganda asserts in its futile attempts to mislead the international community, and were aimed at seizing the territories of Azerbaijan by force and creating the ethnically homogenous areas there.

At the end of 1991 and the beginning of 1992, when both former Soviet Union Republics achieved independence, Armenia unleashed full-scale war against Azerbaijan. As a result, a significant part of the territory of Azerbaijan, including

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the Daghylyq Garabagh region and seven adjacent districts, was occupied by Armenia. That period was marked by an increase in the magnitude, intensity and consistency of the attacks on Azerbaijani civilians in the Daghylyq Garabagh region and beyond. The war led to the deaths and wounding of thousands of people, while hundreds of thousands became refugees and were forcibly displaced.

Twenty-two years ago, an unprecedented massacre was committed against the Azerbaijani population in the town of Khojaly. Before the conflict, 7,000 people lived in this town of the Daghylyq Garabagh region of Azerbaijan. From October 1991, the town was entirely surrounded by the Armenian forces. During the night of 25 to 26 February 1992, following massive artillery bombardment of Khojaly, the assault on the town began from various directions. The attack and capture of the town, implemented by the Armenian forces, with the direct participation of the infantry guards regiment No. 366 of the former Union of Soviet Socialist Republics, involved the extermination of hundreds of Azerbaijanis, including women, children and the elderly, and thousands of civilians were wounded and taken hostage, while the town was razed to the ground.

There are sufficient grounds to conclude that the Government of the Republic of Armenia and subordinate forces for which it is liable under international law are responsible for serious violations of international humanitarian and human rights law during the conflict, including in Khojaly, which amount to crimes under international law. The violations of the rules of war by the Armenian side include, inter alia, indiscriminate attacks, including the killing of civilians, the taking and holding of hostages, and the mistreatment and summary execution of prisoners of war and hostages. What happened in Khojaly was the largest massacre in the conflict.

In its relevant resolutions adopted in 1993 in response to the illegal use of force against Azerbaijan and occupation of its territories, the Security Council made specific reference to violations of international humanitarian law, including the displacement of a large number of civilians in Azerbaijan, attacks on civilians and the bombardment of inhabited areas. Referring to the reports available from independent sources, the European Court of Human Rights pointed out that "... at the time of the capture of Khojaly on the night of 25 to 26 February 1992 hundreds of civilians of Azerbaijani ethnic origin were reportedly killed, wounded or taken hostage, during their attempt to flee the captured town, by Armenian fighters attacking the town". The Court qualified atrocities committed in Khojaly as "acts of particular gravity which may amount to war crimes or crimes against humanity" (judgment of 22 April 2010, paragraph 87). Based on the results of their inquiries, Human Rights Watch/Helsinki and the Memorial Human Rights Center placed direct responsibility for the civilian deaths with the Armenian forces (available from www.hrw.org/news/1997/03/23/response-armenian-government-letter-townkhojaly-nagorno-karabakh and <http://www.memo.ru/hr/hotpoints/karabah/Hojaly/index.htm>).

Indeed, the overall assessment of the causes and consequences of the war unleashed by the Republic of Armenia against the Republic of Azerbaijan and all existing facts of the tragic events in Khojaly make it absolutely clear that the crimes committed in that town of Azerbaijan were not an isolated or sporadic act, but were part of Armenia's deliberate, widespread and systematic policy and practice of atrocities, at the core of which are odious ideas of racial superiority, ethnic differentiation, hatred and territorial expansionism. The intentional slaughter of the

civilians in Khojaly was directed at their mass extermination only because they were Azerbaijanis.

The official investigation conducted in Azerbaijan has found that the following elements of the crime of genocide, as defined under international law, are present with regard to the attacks on civilians in Khojaly: the *actus reus* consisting of killing and causing serious bodily or mental harm; the existence of a protected group being targeted by the authors of the criminal conduct; and the specific genocidal intent to annihilate, in whole or in part, a group distinguished on racial, ethnic, national or religious grounds. According to the findings of the investigation, the following requirements are met for the purpose of sustaining the genocidal charges with regard to the crime committed in Khojaly: the clear and convincing proof of the intent to destroy the group in whole or in part; the fact that the destruction that took place in Khojaly was "significant" enough to affect the defined group as a whole; and the crime was committed within a specific geographic locality.

As is known, the present and former presidents of the Republic of Armenia, Serzh Sargsyan and Robert Kocharian, together with other high-ranking political and military officials of that State and leaders of the separatist regime set up by Armenia in the occupied territory of Azerbaijan, personally participated in seizing Azerbaijani lands and in the reprisals against Azerbaijani civilians and prisoners of war. It is clear that, given the scale and gravity of the offences that they committed, the criminal prosecution of all responsible, regardless of their official or political status, must be an inevitable consequence of their crimes.

Impunity still enjoyed in Armenia by the perpetrators of the crimes committed during the conflict, including the glorification of war criminals and raising them to the status of national heroes, continues to impede progress in the conflict settlement process. Therefore, combating impunity is important not only for the purpose of prosecuting crimes and bringing those responsible to justice, the achievement of which is undoubtedly imperative per se, but also to ensure sustainable peace and reconciliation. It is clear that insofar as the Republic of Armenia is unwilling to take the steps necessary to ensure accountability, the international community should play a more proactive role in ending impunity for the crimes committed against the civilian population of Azerbaijan during the conflict. We are confident that the consistent measures being taken at the national and international levels, as well as the existing international legal framework, will serve to bring to justice those responsible.

I should be grateful if you would have the present letter circulated as a document of the General Assembly, under agenda items 34, 38, 65, 67, 69, 77, 85 and 86, and of the Security Council.

(Signed) Agshin Mehdiyev
Ambassador
Permanent Representative